

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-cv-653-RJC-DCK**

MEINEKE CAR CARE CENTERS, INC.,)
)
Plaintiff,)
)
)
 vs.)
)
RUDOLPH H. MOORE and)
GB5 MOTORS, INC.)
)
Defendants.)
)
_____)

ORDER

THIS MATTER comes before the Court sua sponte. On August 19, 2013, this Court issued an order granting Plaintiff's Motion for Preliminary Injunction and denying Plaintiff's Motion for Default Judgment. (Doc. No. 12). Specifically, the Court denied default judgment due to the existence of a Franchise Agreement requiring the final merits of Plaintiff's claims to be determined in arbitration proceedings. (Id. at 5). In addition, the Court ordered the following:

“Article III of the Constitution requires that there be a live case or controversy for a federal court to hear a case. Burke v. Barnes, 479 U.S. 361 (1987). The parties' Franchise Agreement requires the final merits of Plaintiff's claims to be determined in arbitration proceedings. Having resolved all issues pending in front of this Court, the Court requests Meineke to file a stipulation of voluntary dismissal under Rule 41(a) within **thirty (30) days** of the entry of this Order.”

(Id. at 6).

More than thirty days have passed and Plaintiff has not made any filings with this Court. Plaintiff has not filed for voluntary dismissal, requested an enlargement of time, or requested to stay the case. Federal Rule of Civil Procedure 41(b) provides as follows:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule--except one for lack of jurisdiction, improper venue,

or failure to join a party under Rule 19--operates as an adjudication on the merits.

It is Plaintiff's burden to move this case forward, and Plaintiff has failed to do so.

IT IS, THEREFORE, ORDERED that all of Plaintiff's claims against Defendant are **DISMISSED without prejudice**. The Clerk is directed to close this case.

Signed: October 7, 2013



Robert J. Conrad, Jr.
United States District Judge